



USDC SDNY
 DOCUMENT
 ELECTRONICALLY FILED
 DOC #: _____
 DATE FILED: 10/27/2023

fisherphillips.com

October 26, 2023

New York
 Times Square Tower
 7 Times Square
 Suite 4300
 New York, NY 10036
 (212) 899-9960 Tel
 (212) 956-1971 Fax

Writer's Direct Dial:
 (212) 899-9985

Writer's E-mail:
 jreiter@fisherphillips.com

Via ECF

Honorable Mary Kay Vyskocil
 United States District Court
 Southern District of New York
 500 Pearl Street, Room 2230
 New York, New York 10007

Re: *Golubovych v. Saks 5th Avenue, Inc.*
Civil Action No. 22-cv-09923 (MKV)

Dear Judge Vyskocil:

We represent Saks & Company LLC (“Defendant” or “Saks”)¹ in the above referenced action. We write to respectfully request that Defendant’s deadline to file its motion to dismiss the amended complaint (Dkt. #35) be extended from October 30, 2023 until November 30, 2023. The reasons for this request are as follows:

- Mediation is currently scheduled in this case for November 8, 2023. Defendant intends to participate in the mediation in good faith to attempt to reach a resolution of this matter. If the Parties are able to reach a resolution through mediation, there will be no need for Defendant to file its motion to dismiss. Accordingly, Defendant requests this extension to preserve resources and hopefully increase the likelihood of a productive mediation.
- In the amended complaint, Plaintiff sets forth some new allegations that had not previously been raised in the over five (5) year period in which she has been pursuing legal claims against Defendant in various forums. The extension of time will allow Defendant the opportunity to review and investigate these new allegations.
- Per the September 11, 2023 Scheduling Order (Dkt # 31), Plaintiff was directed to file an amended complaint on or before October 6, 2023, and Defendants were given 14 days from such filing to respond to the amended complaint. As

¹ Plaintiff improperly names Saks 5th Avenue, Inc. as Defendant in this case.

the Court is aware, Plaintiff failed to file her amended complaint on or before October 6, 2023. The Court issued an Order to Show Cause ordering Plaintiff to explain why she failed to comply with the deadline and to file any amended complaint on or before October 17, 2023. Plaintiff filed her amended complaint on October 16, which placed Defendants' deadline to respond to the amended complaint on October 30, 2023. The Fisher Phillips counsel of record for Defendant (myself and Melissa Camire) are dealing with several prior scheduling conflicts between October 16, 2023 and October 30, 2023, including depositions scheduled on October 23, October 26, October 27 and October 30. Initially, we did not foresee that these prior commitments would affect our ability to timely respond to the amended complaint, as it was originally contemplated, we would be filing the motion to dismiss no later than October 20, 2023 in accordance with the September 11, 2023 Scheduling Order. However, due to the Plaintiff's failure to timely file her motion to dismiss as per the September 11, 2023 Scheduling Order, our ability to respond to the amended complaint now falls within the conflicting timeframe.

Plaintiff does not consent to this request. As for the reasons Plaintiff does not consent to this request, on Tuesday October 24, 2023, Plaintiff stated as follows:

The end of November and, in particular, November 30th, is my mother's death anniversary. As you know, my mother passed away on the night of November 29th/30th 2019 due to the unlawful actions of Saks Department manager Briana Kottler. It's a private mourning time for me.

And to my understanding, Mr. Reiter, you and the company you're representing, exceeded every extension time when you denied the service of the court papers for Saks for seven months at the 225 Liberty street location and you didn't "provide the reason why".² So my answer to your request will be negative. I do not consent to your request.

* * *

² Defendant is not aware of any refusal to accept a properly served summons. Defendant was served by mail via the U.S. Marshals Service on or about April 24, 2023. Defendant subsequently filed an acknowledgment of receipt of summons and complaint.

This is Defendant's first request for an extension of the deadline to file its motion to dismiss the Complaint. The extension will not affect any other scheduled dates in connection with the above-captioned action. In the event that mediation is unsuccessful, Plaintiff will not be prejudiced by this brief extension (which is approximately three weeks after the mediation, and takes into account the Thanksgiving holiday). Defendant is amenable to providing Plaintiff with a reasonable extension of time to file her opposition to our anticipated motion to dismiss if she so requests.

Respectfully submitted,

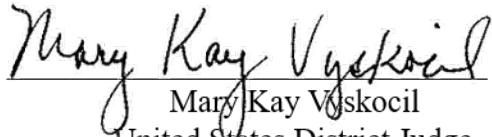
s/ Justin W. Reiter

Justin W. Reiter
For FISHER & PHILLIPS LLP

cc: Laryssa Golubovych (via ECF and FedEx)

Defendant's request for an extension to file its anticipated motion to dismiss is GRANTED. Defendant shall file its motion to dismiss on or before November 30, 2023. Any subsequent briefing for that motion will be on the schedule set forth in Local Rule 6.1(b). SO ORDERED.

Date: 10/27/2023
New York, New York


Mary Kay Vyskocil
United States District Judge